

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION**

DON RICARD,

Plaintiff,

No. 1:19-cv-01881-CL

v.

ORDER

**SARAH R. HILL; DENNIS GIBBS;
CHRIS KABER,**

Defendants.

McSHANE, District Judge.

Magistrate Judge Mark D. Clarke has filed a Report and Recommendation, ECF No. 33, concerning Motions to Dismiss filed by Defendants Sarah R. Hill and Chris Kaber, ECF Nos. 26, 27. Judge Clarke recommends that the motions be granted and Second Amended Complaint be dismissed with leave to amend.

Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, no objections have been filed and the time for filing objections has passed. The Court finds no error and ADOPTS the Findings and Recommendation, ECF No. 33. The Motions to Dismiss, ECF Nos. 26 and 27, are GRANTED and the Second Amended Complaint, ECF No. 24, is DISMISSED with leave to amend. Plaintiff shall have thirty (30) days from the date of this Order in which to file a third amended complaint.

It is so ORDERED and DATED this 6th day of July 2020.

s/Michael J. McShane
MICHAEL McSHANE
United States District Judge